IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER
::
S.B. Sales Tax Revision Petition No. 270/2005

Assistant Commissioner,
Anti Evasion Zone-II, Commercial Taxes, Jaipur

Versus

M/s Sunit Bagai Ashwani Kumar,
S-21, Bhawani Singh Raod, C-Scheme, Jaipur
::

Date of order :: September 05, 2007

PRESENT
HON'BLE DR. JUSTICE VINEET KOTHARI

Mr. Brij Sharma on behalf of Mr. R.B. Mathur for the petitioner
Mr. H.S. Khandelwal for the respondent assessee

BY THE COURT:

1. Heard learned counsels.

2. The present matter arises under the Rajasthan Tax on Entry of Motor Vehicles into Local Areas Act, 1988 as the allegation against the respondent assessee was that he brought the

vehicle within the State of Rajasthan without the prescribed Form E.T.-1. The Deputy Commissioner (Appeals) remanded the case back to the regular assessing authority having jurisdiction over the assessee and the impugned order passed by the Anti Evasion Authority was held to be bad in law. The Revenue went in appeal before the Tax Board, which was dismissed. Hence, this revision petition at the instance of Revenue.

3. Learned counsel for the respondent assessee has brought to the attention of the court that the Commissioner, Commercial Taxes, Rajasthan has already issued a Circular on 22.07.2004 for transfer of jurisdiction of the Anti Evasion Authorities to the regular assessing authorities of the circles having jurisdiction for the time being. The said Circular is reproduced hereunder :-

CIRCULAR

Sub.: Regarding jurisdiction in the matters under the Rajasthan Entry of Motor Vehicle into Local Areas Act,

1988.

In its decision S.B. of the Rajasthan Tax Board in Appeal No. 1498/2002/Pali dated 29.07.2003 the Board has laid down that the jurisdiction of the Anti Evasion Authorities, under the Rajasthan Tax on Entry of Motor Vehicles into Local Areas Act, 1988, lies only in cases where evasion of tax is detected against the dealers and not against the person. As per the decision of the Board, the transporter, who had bought motor vehicles from outside the State, is not covered by the term 'dealer' under the RST Act, therefore, such officer of the Anti-Evasion Wing lacked jurisdiction to proceed against the transporter under section 6 of the Rajasthan Tax on Entry of Motor Vehicles into Local Areas Act, 1988.

The implication of this judgment is that the realization of entry tax by the Anti Evasion Authorities would be void ab initio. The Anti-Evasion officers in the State have made out such cases and have realized tax and penalty in number of cases. It appears that this decision of Tax Board would nullify such levy and therefore, action has to be initiated by the regular assessing authorities having jurisdiction.

In the above backdrop and in continuance of the Circular No. F.16(36/CCT/92/269 dated 23.05.2003, it is directed that all the cases relating to levy of entry tax under the Act of 1988 pending with the officers of the Anti-Evasion wing, shall be transferred to the authorities of the regular Circles having jurisdiction for the time being, within ten days of issuance of this Circular. The regular

assessing authorities shall resort to immediate actions for levy of applicable entry tax in such cases. Deputy Commissioner (Adm.) would ensure strict compliance of these instructions.

4. Since the Commissioner has already transferred all such cases to the regular assessing authorities and by the impugned order of the Deputy Commissioner (Appeals) also the said appellate authority had remanded the case back to the regular assessing authority, this revision petition, as a matter of fact, becomes infructuous because the petitioner department has now taken a policy decision in this regard as stated in the aforesaid Circular.

5. Therefore, this revision petition is found to be devoid of merit as no question of law arises in the present matter for consideration by this court. Consequently, this revision petition is dismissed with no order as to costs.

(Dr.VINEET KOTHARI),J.

Pramod
Item No. 12